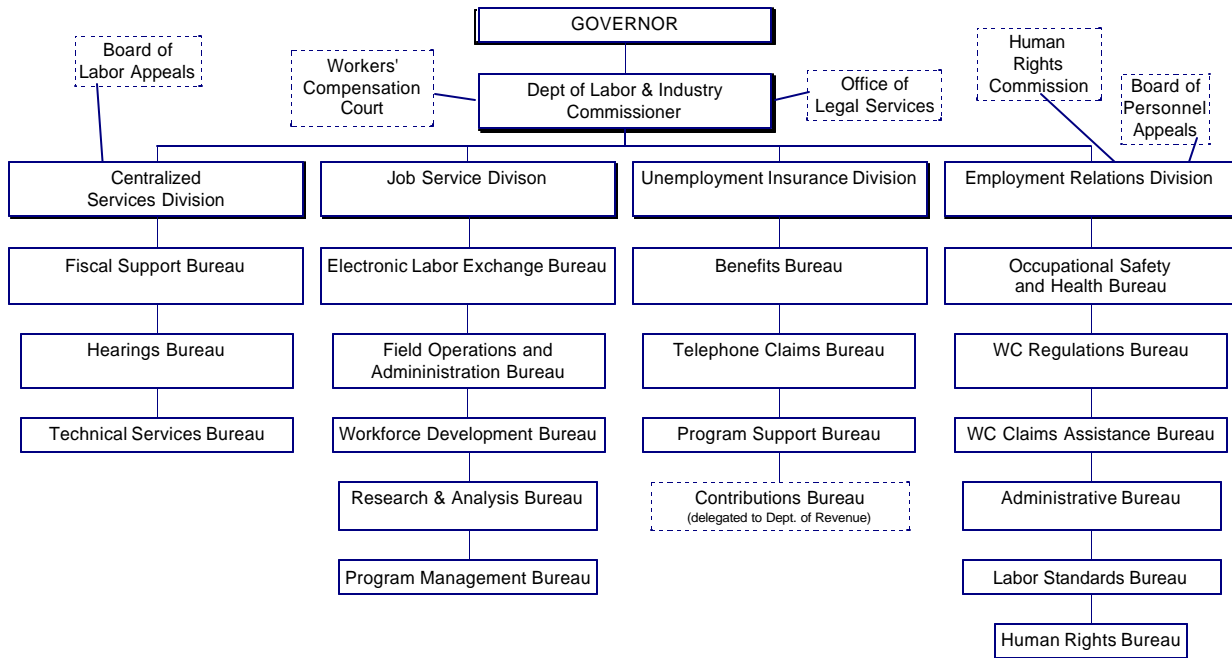
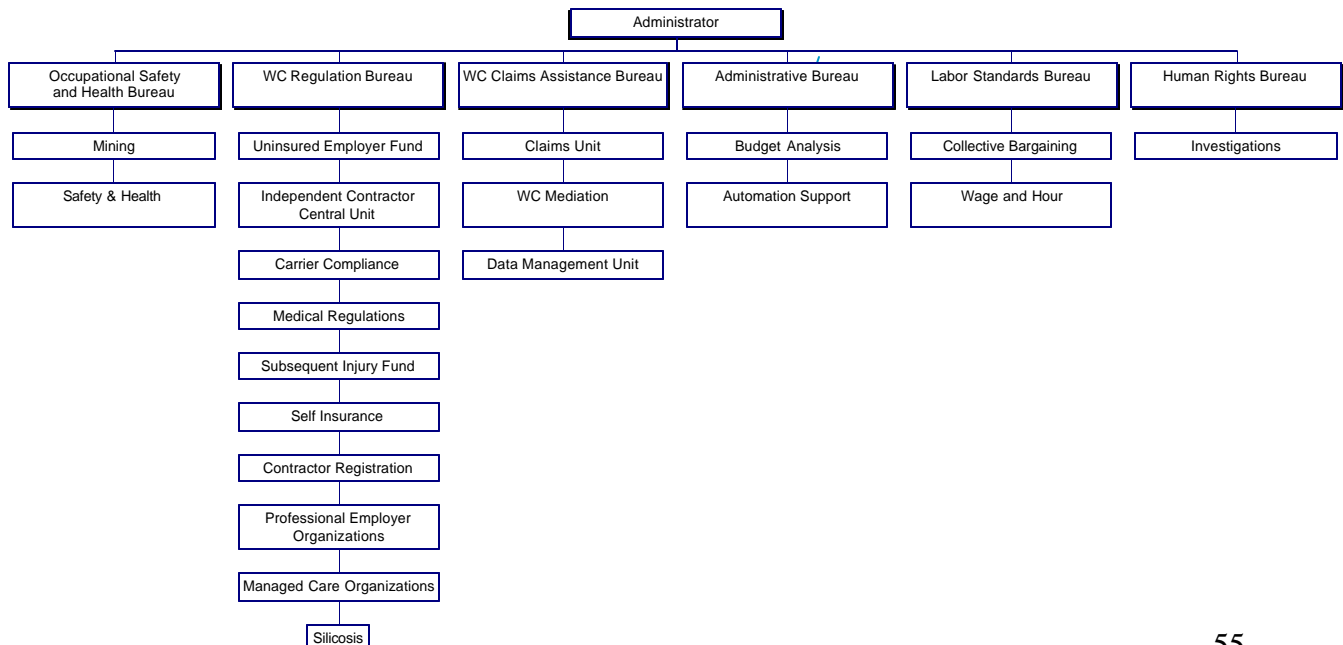


# Organizational Charts

## Montana Department of Labor & Industry



## Montana Department of Labor & Industry Employment Relations Division



## ***Regulatory Costs***

The cost of administering the Workers' Compensation and Occupational Disease Acts and the various occupational safety laws is funded by an assessment to Plan 1 (self insurers), Plan 2 (private insurance carriers), and Plan 3 (State Fund). § 39-71-201, MCA, requires the administrative assessment to be three percent of benefits paid during the preceding calendar year for injuries covered under the Workers' Compensation Act and the Occupational Disease Act, without regard to the application of any deductible, whether the employer or the insurer pays the losses. Benefits included in the calculation are: (1) compensation benefits paid and (2) medical benefits paid (except payments in excess of \$200,000 per occurrence, which are exempt from the assessment).

### **Regulatory functions performed by the Department of Labor and Industry**

- Legal functions of the Workers' Compensation Court, Hearings and Legal Bureaus
- Administration of the Employment Relations Division, including the Workers' Compensation Database
- Claims management, data analysis, rehabilitation panels, mediation, and administration functions of the Claims Assistance Bureau
- Medical regulation, self-insurance, carrier compliance, Professional Employer Organizations, Managed Care Organizations and administration functions of the Regulation Bureau
- Occupational safety statistics, mandatory inspections, on-site consultation grant match, mining inspection, mine training grant match, and safety culture functions of the Safety Bureau

### **Regulatory Costs By Fiscal Year**

	<b>FY98</b>	<b>FY99</b>	<b>FY00</b>	<b>FY01</b>	<b>FY02</b>
<b>Regulatory Costs</b>	\$3,816,458	\$3,963,315	\$4,070,937	\$3,950,660	\$4,387,058

## Subsequent Injury Fund

The Subsequent Injury Fund (SIF) was established by legislation passed in 1973. The purpose of SIF is to assist individuals with impairments to obtain employment by offering a financial incentive to employers for hiring SIF-certified individuals. Many states have similar funds called either subsequent or second injury funds. Montana's program is funded through an annual assessment on Plan 1 employers and an assessment surcharge against policyholders insured under Plan 2 and Plan 3.

The law defines "person with a disability" as a person who has a medically certifiable permanent impairment that is a substantial obstacle to obtaining employment or re-employment. Also taken into account are such factors as the person's age, education, training, experience and employment rejections.

The Subsequent Injury program reduces the liability of the employer by placing a limit on the amount an employer, or the employer's insurer, will have to pay if the worker becomes injured or re-injured on the job. When that limit is reached, SIF assumes liability for the claim. If a certified worker does become injured on the job, the worker remains entitled to all benefits due under the Workers' Compensation Act and Occupational Disease Act.

There were 176 new SIF certifications during fiscal year 2002. There are a total of 3,035 SIF certified individuals in the state of Montana.

The assessment surcharge is based on a percentage of the compensation and medical benefits paid in Montana by each plan in the preceding calendar year. The rate is set by the Employment Relations Division based on the total amount of paid losses reimbursed by the fund in the preceding calendar year and the expenses of administration, less other income.

### Subsequent Injury Fund Claims in FY02

#### By Plan Type<sup>1</sup>

	Plan 1	Plan 2	Plan 3	Total
<b>New Claims Filed</b>	1	1	1	3
<b>Number of Open Claims</b>	33	8	17	58

**Notes:**

<sup>1</sup>Plan types: Plan 1 – Self-insured Employers, Plan 2 – Private Insurance, and Plan 3 – State Fund  
Reserve amounts are no longer reported due to a change in the assessment methodology, effective January 1, 1998.

### SIF Payments and Dollars Assessed

#### By Plan Type<sup>1</sup> and Fiscal Year

	FY98		FY99		FY00		FY01		FY02	
	Payments	Assessment	Payments	Assessment	Payments	Assessment	Payments	Assessment	Payments	Assessment
Plan 1	\$49,938	\$6,134	\$134,228	\$19,804	\$42,200	\$0	\$18,819	\$0	\$180,361	\$99,700
Plan 2	\$74,675	\$11,425	\$101,196	\$102,699	\$16,195	\$0	\$9,580	\$0	\$43,294	\$19,854
Plan 3	\$112,575	\$20,399	0	\$22,524	549	\$0	\$170	\$0	\$12,461	\$381
<b>Total</b>	<b>\$237,188</b>	<b>\$37,958</b>	<b>\$235,424</b>	<b>\$145,027</b>	<b>\$58,944</b>	<b>\$0</b>	<b>\$28,569</b>	<b>\$0</b>	<b>\$236,116</b>	<b>\$119,935</b>

**Note:**

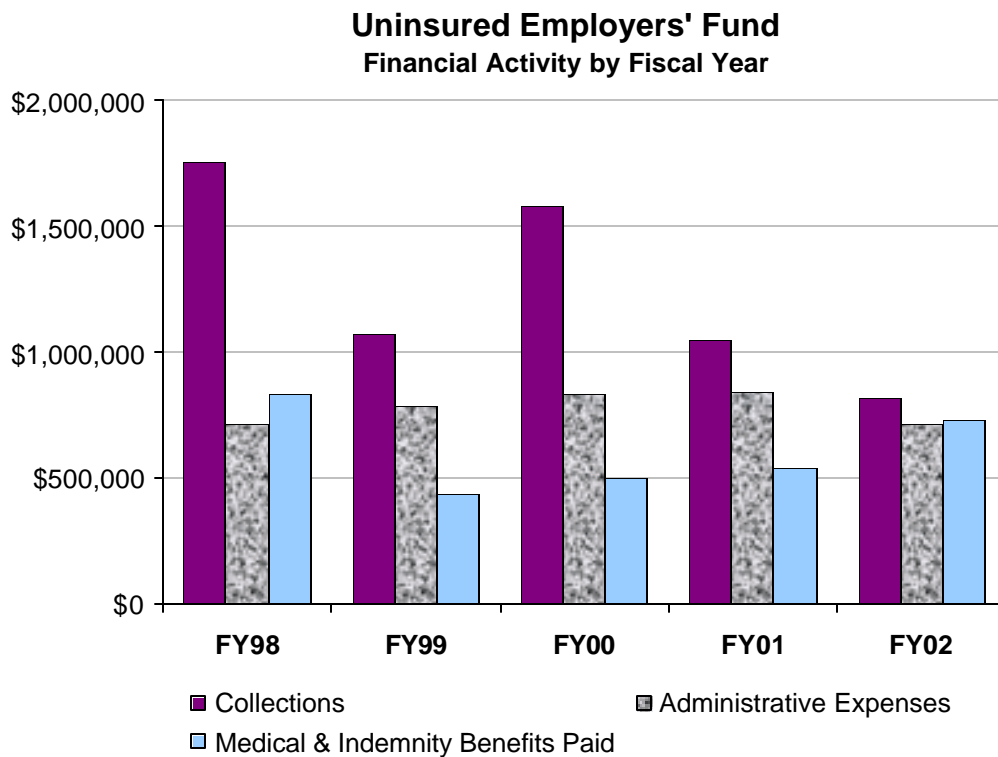
<sup>1</sup>Plan types: Plan 1 – Self-insured Employers, Plan 2 – Private Insurance, and Plan 3 – State Fund

## ***Uninsured Employers' Fund***

The role of the Uninsured Employers' Fund (UEF) is to ensure employers comply with required workers' compensation laws so employees are properly covered by insurance. If employers are without appropriate workers' compensation insurance, the UEF provides benefits for their injured employees and pursues reimbursement from the uninsured employers.

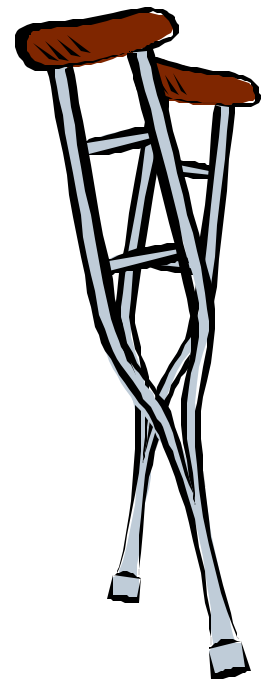
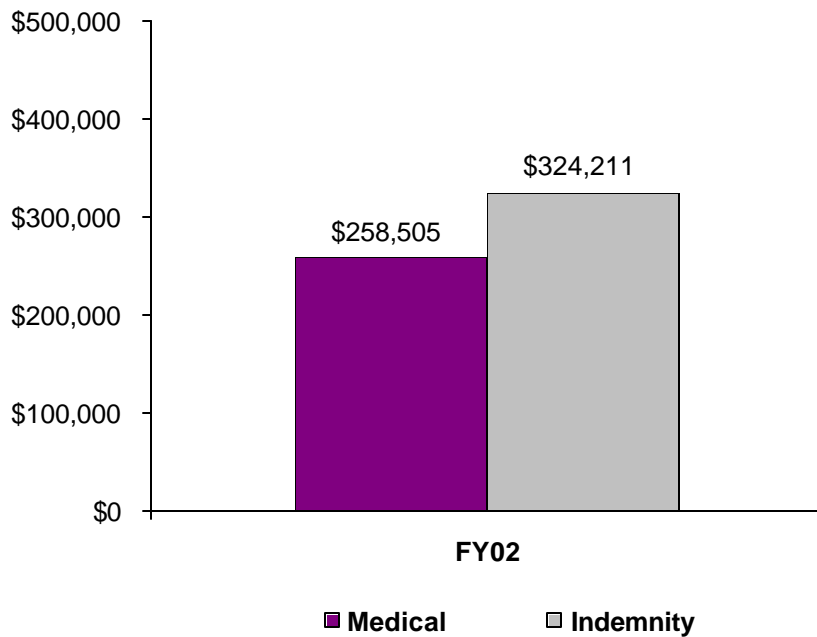
The UEF Unit also levies and collects penalties for the time the employer was uninsured. UEF may require the uninsured employer to pay a penalty to the fund:

- up to double the insurance premium that would have been paid by the employer, or
- \$200, whichever is greater.



<b>Uninsured Employers' Fund Financial Activity by Fiscal Year</b>					
	<b>FY98</b>	<b>FY99</b>	<b>FY00</b>	<b>FY01</b>	<b>FY02</b>
<b>Collections</b>	\$1,755,694	\$1,077,146	\$1,580,000	\$1,051,941	\$816,467
<b>Administrative Expenses</b>	\$712,692	\$790,077	\$836,664	\$842,702	\$716,409
<b>Medical &amp; Indemnity Benefits Paid</b>	\$834,430	\$436,992	\$497,201	\$535,027	\$582,716

### UEF Indemnity and Medical Payments in FY02



### UEF Indemnity and Medical Payments By Fiscal Year

	FY98	FY99	FY00	FY01	FY02
Medical	\$454,766	\$143,807	\$168,534	\$263,017	\$258,505
Indemnity	\$379,664	\$293,185	\$328,667	\$272,010	\$324,211
Total	\$834,430	\$436,992	\$497,201	\$535,027	\$582,716

- The Uninsured Employers' Fund recorded claims from 76 workers who were injured in FY02 and whose employers were uninsured.

## ***Occupational Safety & Health***

The goal of the Safety and Health Bureau is to prevent employee illness and injuries by enforcing the intent of the various Montana safety statutes and to support federally funded Occupational Safety and Health Administration (OSHA) voluntary programs in the private sector. This involves mandatory workplace safety inspections in public sector workplaces (city, county, state governments and schools), coal mines and sand and gravel operations. Non-mining private sector employers are covered by federal OSHA with regard to inspection activities. The ultimate goal of all activities of the Bureau is to reduce worker injuries and illnesses and lower workers' compensation premiums.

The Bureau inspects public workplaces and issues orders for correction of hazards to provide a safe and healthy work environment. Federal OSHA preempts inspecting private places of business but on-site consultations are available to private employers upon request, thanks to a grant from OSHA.

Mining inspections are conducted on surface and underground coal mines, in addition to sand and gravel operations throughout the state. These mines are required to comply with safety and health standards in the mine safety statutes. The Bureau has no enforcement jurisdiction in metal/nonmetal mines, which fall under the auspices of the Federal Mine Safety and Health Administration (MSHA).

MSHA has provided the Bureau with a training grant to conduct safety training for employers and employees of small mines. Mine operators are assisted in developing acceptable training plans so that their employees recognize hazardous conditions in mining operations.

The Safety Culture Act, §39-71-1501, MCA, requires employers in Montana to implement an education-based safety program in each place of employment. Employers with more than five employees are also required to have active safety committees.

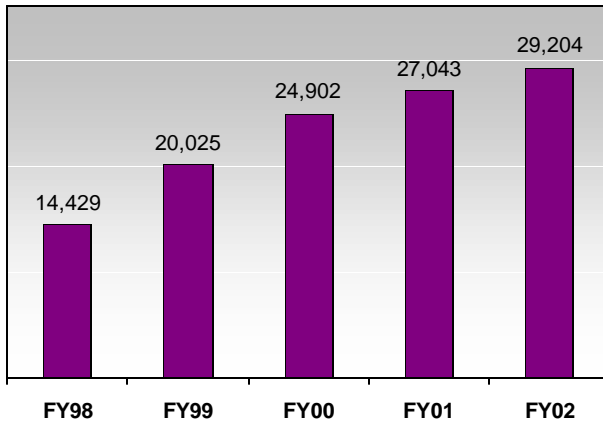
## ***Occupational Safety & Health Activities in FY02***

<b>Occupational Safety &amp; Health</b>						<b>Employer Sector</b>				
	<b>Public</b>					<b>Private</b>				
	<b>FY98</b>	<b>FY99</b>	<b>FY00</b>	<b>FY01</b>	<b>FY02</b>	<b>FY98</b>	<b>FY99</b>	<b>FY00</b>	<b>FY01</b>	<b>FY02</b>
Mandatory Inspections Performed	169	243	250	341	223	--	--	--	--	--
On-site Inspection Performed	--	--	--	--	--	175	169	207	142	214
Requests for Technical Assistance	280	344	292	479	363	409	437	356	438	447
Formal Training Sessions Conducted	54	34	24	44	33	44	34	61	45	46
Workers Trained	1,797	757	572	1,048	388	1,236	1,404	608	598	638

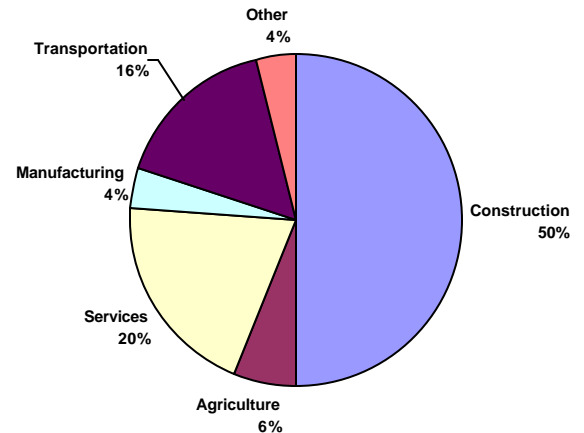
<b>Mining Section</b>						<b>Coal</b>					<b>Sand &amp; Gravel Operations</b>				
	<b>Coal</b>					<b>Sand &amp; Gravel Operations</b>					<b>Sand &amp; Gravel Operations</b>				
	<b>FY98</b>	<b>FY99</b>	<b>FY00</b>	<b>FY01</b>	<b>FY02</b>	<b>FY98</b>	<b>FY99</b>	<b>FY00</b>	<b>FY01</b>	<b>FY02</b>	<b>FY98</b>	<b>FY99</b>	<b>FY00</b>	<b>FY01</b>	<b>FY02</b>
Inspections Performed	79	42	32	38	31	192	146	160	172	174	192	146	160	172	174
Mine Training Sessions Conducted	22	17	11	19	15	83	78	61	79	111	83	78	61	79	111
Workers Trained	705	770	156	302	497	1,144	844	864	1,436	1,512	1,144	844	864	1,436	1,512
Coal Mine Foreman Training Sessions Conducted	10	2	1	--	3	--	--	--	--	--	--	--	--	--	--
Coal Mine Foreman Trained	82	18	11	9	19	--	--	--	68	--	--	--	--	68	--

## ***Independent Contractor Exemptions***

**Number of Independent Contractor Exemptions**



**Percent of IC Exemptions By Industry**



Independent contractor exemptions are issued to individuals for a two-year period, as of July 1, 2003. The exemption assists in identifying those who are independent contractors and do not want to be covered under workers' compensation insurance or unemployment insurance. The law requires individuals who hold themselves out as independent contractors to have workers' compensation insurance on themselves or obtain an Independent Contractor Exemption certificate. A sole proprietor, working member of a partnership or a working member of a member-managed limited liability company may apply for the exemption. Corporate officers are considered employees of the corporation and do not qualify for the exemption, as well as managers of a manager-managed limited liability company.

During FY 2002, the department processed 5,198 new independent contractor exemption applications. There were a total of 29,204 active independent contractor exemptions during this time.

The number of active independent contractors (ICs) has increased since the exemption was first enacted in 1983. The majority of the exemptions continue to be in the construction industry (50%), with the service industry 2<sup>nd</sup> (20%), and transportation 3<sup>rd</sup> (16%).

The department audits renewal applications; to ensure only those applicants that are independent contractors are receiving the exemption. Those audited may be asked to provide proof of tax filing as a business, proof of servicing more than one contract, proof of advertising, and/or proof of insurance. They may provide any other information they



have that verifies they are truly independent contractors. All applicants are aware when they sign the affidavit that they may be requested to provide this information.

Recently, in *Wild v. Fregein Construction and Montana State Compensation Insurance Fund*, 2003 MT 115, p 25, the Montana Supreme Court, ruled that “an employer has a clear obligation to make at least a cursory determination of whether the worker is an IC in fact, as opposed to merely in name, before the employer can reasonably rely upon the exemption. An employer who fails to do so, with knowledge of the facts, should not be allowed to hide behind the exemption.”

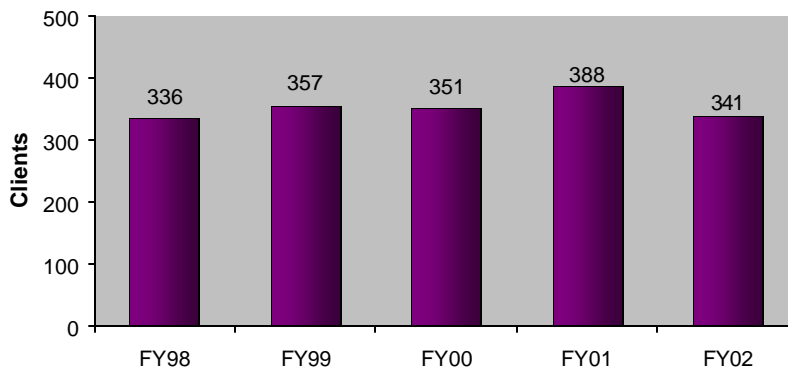
## Professional Employer Organizations

Professional Employer Organizations (PEOs) are required to be licensed by the Department of Labor and Industry prior to operating in Montana. A Professional Employer Organization is a business that leases employees to other businesses. A PEO manages the paperwork responsibilities associated with having employees. They are to pay employee wages, workers' compensation premiums, payroll-related taxes, and employee benefits from their own account without regard to payments by the client. Thus, they become the employer of record. The client company in return pays the PEO the employee costs plus an administrative fee. The client company is sometimes termed a co-employer. A client is a person who obtains all or a part of its workforce from another person through a professional employer arrangement.

There were 22 licensed PEOs who leased employees to 341 Montana business clients for FY2002. Approximately 2,482 employees were leased from PEOs in Montana.

*Please note: this report has changed from calendar year to fiscal year and all years have been adjusted accordingly.*

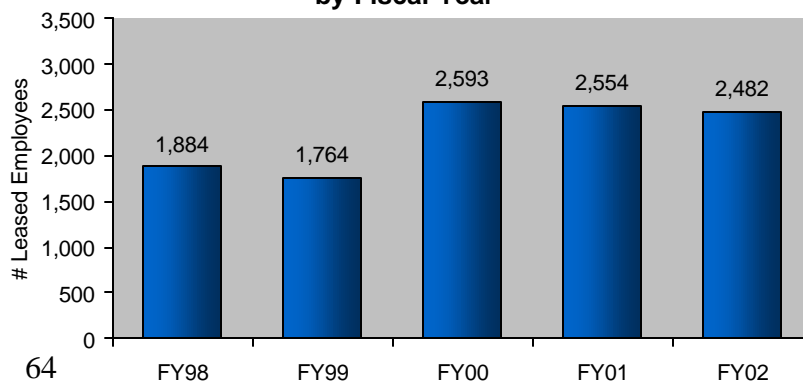
**Number of PEO Clients  
by Fiscal Year**



Number of PEO Clients By Fiscal Year	
Fiscal Year	Count
1998	336
1999	357
2000	351
2001	388
2002	341

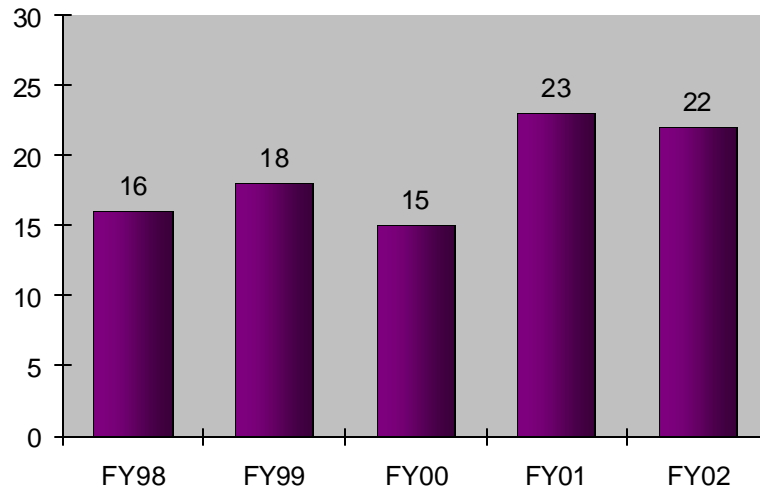
Data Source: Points (Department of Revenue, Unemployment Insurance Division)

**Number of Leased Employees  
by Fiscal Year**



Number of Leased Employees By Fiscal Year	
Fiscal Year	Count
1998	1,884
1999	1,764
2000	2,593
2001	2,554
2002	2,482

**Number of Licensed PEOs  
by Fiscal Year**



Number of Licensed PEOs By Fiscal Year	
Fiscal Year	Count
1998	16
1999	18
2000	15
2001	23
2002	22

